IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 18138 of 2004

Between:

M/s Mallaiah & Sons Edible Oils Pvt Ltd,

Canal Road, Vijayawada,Krishna District,
Rep. by its Managing Director Sri Gopisetty Mallaiah

..... PETITIONER

AND

1 Additional Commissioner (FAC), Commercial Taxes (Legal),
O/o The Commissioner of Commercial Taxes, M.J. Road, Opp: Gandhi Bhavan, Hyderabad.
2 Commercial Tax Officer, Sivalayam Street, Vijayawada.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ of Mandamus or any other appropriate Writ or Order or Direction declaring the action of the 2nd Respondent in threatening to take coercive steps for recovery of the balance disputed tax of Rs. 2,00,882/- for the assessment year 2002-03 pursuant to his notice dt. 31-8-2004 when the appeal before the Tribunal and the stay application before the 1st Respondent were heard and reserved for orders on 14-9-2004 and 25-9-2004 respectively, as arbitrary, contrary to law and against the weight of evidence and probabilities of the Petitioner's case and consequently grant

stay of collection of balance disputed demand of Rs. 2,00,882/- for the assessment year 2002-03 pending disposal of the appeal before the Sales Tax Appellate Tribunal.

Counsel for the Petitioner:MR.SHAIK JEELANI BASHA

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court at the stage of admission made the following ORDER: (per BN,J)

Heard learned counsel for the parties. With their consent, the matter is disposed of at this stage.

The applicant's case is that he has already paid around 75% of the disputed liability. His appeal is pending. Stay application is also pending and arguments in stay application have been heard on 25-09-2004 and appeal has also been heard on 14-09-2004 and orders are reserved. Since the petitioner has already paid almost 75% of the disputed liability, therefore, we think that recovery should be stayed till the disposal of the appeal.

The writ petition is allowed. There shall be stay of recovery of the balance disputed tax till the disposal of the appeal. No costs.

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(BILAL NAZKI, J)

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(S.ANANDA REDDY, J)

6th OCTOBER, 2004.

Note: wire at party's costs.

B/o

Kvni/vrn

To

1 The Additional Commissioner (FAC), Commercial Taxes (Legal),
O/o The Commissioner of Commercial Taxes, M.J. Road, Opp: Gandhi Bhavan, Hyderabad.
2 The Commercial Tax Officer, Sivalayam Street, Vijayawada.

3 Two CCs to the Government Pleader for Commercial Taxes, A.P.High Court Buildings, Hyderabad (OUT)

4 Two CD copies.